

CHAPTER I
INTEREST IN CATTLE

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A PEOPLE whose material culture is as simple as that of the Nuer are highly dependent on their environment. They are pre-eminently pastoral, though they grow more millet and maize than is commonly supposed. Some tribes cultivate more and some less, according to conditions of soil and surface water and their wealth in cattle, but all alike regard horticulture as toil forced on them by poverty of stock, for at heart they are herds-men, and the only labour in which they delight is care of cattle. They not only depend on cattle for many of life's necessities but they have the herdsman's outlook on the world. Cattle are their dearest possession and they gladly risk their lives to defend their herds or to pillage those of their neighbours. Most of their social activities concern cattle and *cherchez la vache* is the best advice that can be given to those who desire to understand Nuer behaviour.¹

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The attitude of Nuer towards, and their relations with, neighbouring peoples are influenced by their love of cattle and their desire to acquire them. They have profound contempt for peoples with few or no cattle, like the Anuak, while their wars against Dinka tribes have been directed to seizure of cattle and control of pastures. Each Nuer tribe and tribal section has its own pastures and water-supplies, and political fission is closely related to distribution of these natural resources, ownership of which is generally expressed in terms of clans and lineages. Disputes between tribal sections are very often about cattle, and cattle are the compensation for loss of life and limb that is so frequently their outcome. Leopard-skin chiefs and prophets are arbiters in questions in which cattle are the issue, or ritual agents in situations demanding sacrifice of ox or ram. Another ritual specialist is the *wut ghok*, the Man of the Cattle. Likewise, in speaking of age-sets and age-grades we find ourselves des-

¹ Nuer interest in their cattle has been emphasized by early travellers in their country. *Vide* Marno, *op. cit.*, p. 343; Werna, *op. cit.*, p. 439; du Couret, *op. cit.*, p. 82.

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inches of water for seventeen days, apart from having to cross numerous deep depressions. In some parts of Lou and Eastern Jikany, particularly in Gaajak, people build in open thornwood forest, but generally Nuer prefer to make their villages in open country, even where there is forest near-by, because their cattle are better protected from wild beasts, insect pests, and damp, and also, apparently, because millet does not do so well in wooded country. Building in the open seems also to give freedom from termites. 361 132

A Nuer homestead consists of a cattle byre and huts. Their byres are of size and workmanship that have evoked the admiration of all travellers. Their form, and the appearance of huts, may be seen in several plates, and their mode of construction is excellently portrayed in Mr. Corfield's photograph (Plate XVIII). It is only necessary to explain that the roofs are supported by trunks of trees erected inside the barns. Both byres and huts are of wattle and daub, though in Western Nuerland, where there is less forest, bundles of millet stalks are employed as rafters. Building and repairs generally take place early in the dry season when there is plenty of straw for thatching and enough millet to provide beer for those who assist in the work. During the rains fences are erected from the byres along two sides of the kraal and around huts to control the movements of cattle and to prevent them messing the homesteads and damaging the crops (Plate XVII). Grazing and the use of grass, trees, &c., is the common right of all members of a village community. 343 342 351 423

Families often change their place of residence from one part of a village to another and from village to village, and, in the case of small villages, if there have been many deaths, the cattle are poorly, there have been fights within the village, or pastures and cultivations are exhausted, the whole village community may move to a new site. After about ten years both pastures and gardens show evident signs of exhaustion on the smaller ridges, and huts and byres need rebuilding after some five years. 361

In dry-season camps men sleep in windscreens and women in beehive-huts, or both sexes in beehive-huts. These flimsy shelters are erected a few yards from water, generally in a semi-circle or in lines with their backs to the prevailing wind, and 342 513

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gardens have to be made on higher land. Where circumstances permit homesteads to be built over a wide stretch of country gardens can be made almost anywhere between them, but where they are strung out along a ridge there is less choice, for the back of the ridge is too hard, does not retain enough water, and is required for grazing. Cultivations are therefore made behind the huts and byres between the summit of the ridge and the sunken plain. Among the Western Nuer, in the higher parts where there is a slight slope, small dams are often constructed to prevent the water running from the gardens. If, on the contrary, the millet is likely to be flooded where the ridge slopes into the plain, drainage canals, sometimes several feet deep and over fifty yards in length, are dug to take excess of water into the bush. These gardens form a continuous line behind the homesteads and if there is sufficient land there for cultivation people do not cultivate elsewhere. If there is not enough land they cultivate along the ridge beyond the confines of the village where it is too damp for building but not too flooded for millet gardens, or in near-by forest.

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There is enough land for everybody on the Nuer scale of cultivation and consequently questions of tenure do not arise. It is taken for granted that a man has a right to cultivate the ground behind his homestead unless some one is already using it, and a man can choose any spot outside the village which is not occupied by the gardens of others. New-comers are always in some way related to some of the villagers, and kinsmen do not dispute about gardens. Moreover, owing to the conformation of Nuer villages, there is a rough correlation between the size of population and the area of cultivable land, for where suitable land is limited so is space for building.

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It has been remarked that when once established millet shows great resistance to climatic variations. The difficulty is for it to become established. It frequently happens shortly after sowing that there is a short period of drought in which the young shoots wither and die. Sometimes this is due to the hungry people sowing too soon, but it is generally unavoidable, because if they wait too long before planting, the millet becomes subject to smut and neither bears nor ripens properly. It also frequently happens that heavy and violent rain destroys the

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361 stones and remains of fires. They have been occupied by many
172 generations of Nuer. Families are not, however, bound to any
particular piece of ground, and move freely when the ground is exhausted
and no longer yields a good harvest of millet or rich pasturage for
361 the cattle. A whole village may then move and live elsewhere for
some years but sooner or later they will settle there again for it is their
birth place. Families and groups of kinsmen will leave a village if
there are many deaths, if the cattle are poorly (*be ran gien kã kwi*
[42] *tieth, kã kwi ghok*), or if fights have taken place in the village. Byres
[43] and huts generally last about five years and have then to be rebuilt.
233 Gardens are cultivated for as long as ten successive years before they
are finally exhausted. When cattle and sheep and goats have grazed
on village pastures (*dor*) for about the same length of time the grasses
show evident signs of exhaustion. Thus in 1936 the people of
Nyueny pointed out to me that after about nine years of occupation
their village pastures had been overgrazed and were poor in consequence.

• 423 Village sites are owned by certain clans and sections of clans.
602 However, ownership is mainly a matter of sentiment, based on long
association between a ridge and a lineage, and since the country is
not over-populated and the Nuer do not make very extensive
cultivations it never becomes a legal issue. Anyone may settle in
a village and the villagers will show him where he may build his huts
and byre and cultivate his millet. This practically means that he
may build and cultivate anywhere not already in occupation or under
cultivation. Nuer are very generous in such matters. In fact,
however, a man is unlikely to settle in a village unless he can claim
kinship with some of the villagers, *i.e.*, is genealogically attached to
the dominant lineage there. *Mar*, kinship, can generally be discovered
somewhere and consequently it is usually possible to place all the
occupants of a village on a single genealogical chart. There are no
real problems of ownership of land among the Nuer.

361 Some parts of Nuerland are blessed with better village sites than
others. Lou country is exceptionally well favoured in this respect
though Western Nuerland has many fine ridges. Lou people say
that in a year of *nyuoc*, or high river-flood, their ridges remain dry

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obtained by work or the sale of such products as hides and grain; and money can be used, apart from trade goods now in demand, to purchase cattle, although the market for cattle is still very limited.

Legal concepts based on values related to a subsistence economy only and conditioned by relative scarcity are bound to be modified when the economy begins to change, and the availability of certain articles is vastly increased. For example, although Nuer now practise agriculture on a larger scale than before and it is therefore of greater importance, an iron hoe valued at several head of cattle in the scale of traditional compensation, if it is ever stolen at all, now demands nothing more than material restitution. Another hoe can be purchased for a few piastres almost anywhere, and the threat of hardship from its loss is negligible. Hence nowadays the potential value of the hoe is ignored; only the actual trade value is assessed and, as will be seen, the wrong inflicted on the owner by taking it from him is not considered.

2. LAND TENURE, GRAZING RIGHTS, AND RIGHTS IN WATER

General Considerations

Rights in land, grazing, and fishing and drinking pools are held by those who are considered to be the descendants of the original occupiers of the area. This is particularly true of Nuer east of the Nile, for such rights are held by descent from the original colonizers. An understanding of land tenure, therefore, requires an analysis of the lineal structure of Nuer society and of the way in which areas were seized from the Dinka and occupied, mostly towards the end of the last century. The position and function of the nuclear clan or 'aristocrats' in each area who are called *diel*—as opposed to *rul*, i.e. later accretions who attach themselves to the original occupants—has already been explained. Most Nuer clans or tribes have strong traditions of an original division of land. Later accretions only acquire rights of possession by association with the nuclear lineage. This is in fact the basis of the whole system of Nuer society. Many *rul* lineages attempt to attach themselves to a nuclear lineage by real or fictitious relationship, often through intermarriage. The distinction in the latter case is clear, for, as we have seen, those who link themselves to the *diel* through previous marriages are called *gaat nyiet*, the 'sons of daughters', as opposed to *gaat tutni*,¹ 'sons of bulls'. *Diel* are always *gaat tutni* in the area they occupy; *gaat nyiet* are always *rul*, though *rul* are not all necessarily *gaat nyiet*. It seems that the word *rul* is applied with greater emotional intensity to those who have arrived and settled more recently, while those whose ancestors attached themselves earlier in Nuer

¹ See p. 18.

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[614] history to a nuclear clan have acquired so much associated tradition that the attachment is confirmed.

Land tenure here means the holding of, and rights to, the high ridges and sandy outcrops which the Nuer occupy during the wet season, where they build their permanent villages and cattle-byres and clear their cultivations, and the various forms of land used for pastures and fishing in the dry season. That certain communities, consisting of the *diel* and later accretions by association, have a definite right to distinct areas is clearly recognized by all Nuer. The sanction for possession in the past was, however, physical force and power to resist the encroachment of others, while nowadays the *status quo* is maintained by the Government.¹

Occupation of the land and prescriptive rights to a certain territory are often expressed in mythological terms linked to the history of the nuclear lineage. The original ancestor is said to have divided land among his sons, themselves ancestors of particular collateral lineages, in the same way as he divided his cattle and sometimes his ritual functions among them. But this is merely an idiom which gives emotional emphasis to ownership of land vested in that nuclear lineage, for land, either arable or pasture, is not a form of property which is normally controlled by the laws of inheritance. A man's eldest son will inherit his huts and cattle-byre, while the other sons continue to occupy them so long as they wish to do so, particularly if they are not married; but, as younger sons, they have no specified portions of their father's land, and there is consequently no individual inheritance of land. When they wish to do so, they will build their houses and set up their homes in some area which is unoccupied, for there is usually no shortage.

311 As I have explained in the introduction, three types of land are utilized by the Nuer, and each is of definite value at certain times of the year. The 'high land', ridges of higher, better-drained ground, provides for the permanent settlements mainly occupied during the rains from approximately May until November, though the period varies according to latitude and local climatic conditions. This area is largely used for the cultivation of millet (their staple crop), of maize and tobacco and the few vegetables which some Nuer grow. Beyond, and usually surrounding the higher ridges, are the 'intermediate' grass plains which are subject to variable flooding from accumulated rainfall which only drains away with difficulty, especially if the ground is already saturated. These 'intermediate' areas are utilized at the end of the rains for pasture so long as sufficient moisture remains in the soil to allow a green regrowth from the perennial grasses after they

¹ Nuer did not confine their aggressive movements to the Dinka. Other Nuer tribes were often attacked and their territory occupied. For example, the Lou Nuer originally occupied the Zeraf Island, but a military alliance between Thiang and Lak drove them out.

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have been burnt or close cropped. Later they dry out and become unpalatable, and by this time the inland pools are also dry, so that the people must move their herds to the *toic*. The word *toic* in some contexts merely means 'summer grazing', in others more specifically the marshes bordering the main channels of the rivers, their smaller tributaries, and the network of minor drainage channels found everywhere in Nuerland. Here a combination of soil, depth and period of immersion from river-spill and other factors produces grasses which, to a greater or lesser degree, are valuable as pasture throughout the dry months of the year. Beyond this are the permanent papyrus swamps (*sudd*), which scarcely dry out at all and are useless for grazing and (at present) are not used for crop production. 311

This classification is necessarily arbitrary and relative, for the difference of level is rarely more than a few feet, and there is no clear-cut boundary between the different types of land.¹ Moreover, though 'high land' is nearly always limited,² 'intermediate' land may extend no more than a few hundred yards before *toic* is found in the flood-plain of neighbouring watercourses, or it may continue for more than fifty miles. Such varying distances have their effect on the seasonal movements of the people, but—again as a broad generalization—the main feature, the balanced utilization of all three types of land according to the season, is common to all Nuer.

For these reasons ownership of the land necessarily includes all three, and when a Nuer speaks of his *rol*, his country, or sometimes his *dhor*, he envisages a territory which includes 'high land' for cultivations and permanent settlements, 'intermediate' land for pasture in the early months of the dry season, *toic* for summer grazing and fishing. *Rol* Gaawar is a complete territory in this respect; within it each primary segment has its own complete area, *rol* Radh and *rol* Bar, and within these the secondary segments, *rol* (*cieng*) Kerfeil, *rol* (*cieng*) Per and so on.³ Thus territory and rights in land follow the segmentary system, but this does not mean that an individual or even a small group of people will necessarily confine their movements to the territory of the segment to which by tradition and practice they should belong. Living in one permanent settlement during the rains, they may well choose to herd their cattle in the dry season pastures of a different segment of the tribe, or in some cases to cross the boundaries of another tribe. They will do so, however, only by agreement with the 'owners' of that territory, though such agreements are often implicit rather than defined. It is clearly recognized that ownership of the land lies with the segment of the tribe from which the name of the area derives; in other words, from the dominant lineage. *Rol* (*cieng*) Kerfeil is theoretically the exclusive property of all descendants of 423

¹ See Jonglei Investigation Team. *Progress Report*, 1948-9.

² See map on p. 13.

³ See p. 19.

4-23 Kerfeil and those linked with them by permanent association. Within it each collateral branch of the main clan has definite rights to a certain part, usually specified by reference to villages on higher ground, and elsewhere to pools which provide water and fish and to the pastures which surround them. *Rol* (or *dhor*) is relative like the word *cieng*, which has much the same meaning on a smaller scale.¹

I must emphasize again that land to the Nuer must include all types, for their subsistence economy is maintained by the balanced and seasonal utilization of all three, but it may be as well to examine separately and in more detail the types of land used for crop production and animal husbandry and the rights in water-points and fisheries which go with them.

Arable Land

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476 From the legal point of view the problem of rights in arable land is not a complicated one among the Nuer, and there is virtually no litigation concerning either individual or collective claims. The reasons are not far to seek. During the cultivation season the Nuer occupy the high ground which is free from river floods or swamping by heavy rain. Such high ground is limited when compared to the total area occupied by Nuer tribes, but there is generally more than enough available. An intricate and complex system of rights in land cannot be necessary unless there is scarcity, and this is not usually the case. Nuer like to have their gardens close to their dwellings, so that they can protect them against wild animals and straying cattle. They do not usually fence their fields, particularly in those areas where wood and thorn are not easily available.² The Nuer village, moreover, is not built on a concentrated pattern, and each homestead is separated from its neighbours by a considerable distance ranging from about a hundred yards to over a mile. The Nuer ideal is to live in the bosom of his own immediate family as isolated as possible from his neighbours and free from tiresome intrusions. This individualistic outlook is, however, limited by a variety of considerations. In the clearing of land, in the heavier tasks of cultivation, and in harvesting, collective assistance, dependent on the mutual obligations of kinship and neighbourhood and the provision of beer and meat for workers, is necessary. A Nuer would not wish to live so far away from his neighbours that it would be impossible to take advantage of their help. Further, in the past at any rate, the need for defence and concentration against

¹ For definition of the word *cieng*, see pp. 20-21.

² Fencing is used in some areas, particularly in the heavily forested regions of the Zeraf Valley, but usually only on newly cleared ground. The branches of trees cut are then used to make thorny enclosures, but these do not last for more than a year or two at most and there is rarely an attempt made to renew them. Fencing is employed particularly when new cultivations are cleared and sown before the homestead has been rebuilt close to them.

ARABLE LAND

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attack was another factor of importance in shaping the pattern of the Nuer settlement, but certainly did not encroach on their desire to live freely, unhindered by the irritations of daily contact with neighbours. There is even the possibility that the establishment of public security by the present Government has resulted in a tendency to move farther afield, but there is little evidence to show with any certainty that villages and settlements were any different a hundred years ago.¹ Apart from these factors, the pattern was obviously governed by purely topographical and climatic considerations: the contours of the high ground, its extent in relation to the population of the community, and the fertility of the soil.

The Nuer are not aware of the value of crop rotation, and do not use their cattle to fertilize the soil; when the ground is exhausted they simply abandon it and move elsewhere, rebuilding their houses and cattle-byres on a new site. There is therefore no high degree of permanence of tenure, and no rigidity of rights in arable land. A man and his family have the prescriptive right to use the land they have cleared, and to do so to the exclusion of every other man so long as they choose. They also have the right to the products of the land and of their own labours, though this right may be said to be limited by their obligations to assist kinsmen, obligations which may be extended in terms of kinship to neighbours, should the vagaries of climate affect their crops. We have already seen that the maldistribution of rainfall coupled with an impervious and otherwise badly drained soil makes crop production a precarious undertaking. In bad years Nuer must rely on the generosity of their more successful kinsmen and sometimes take refuge with them (for the widespread failure of crops only occasionally happens) and in years of heavy rainfall, those whose land is high and well-drained enjoy an advantage which is lost to them when the rains are light. There is, of course, no means of enforcing the rules of hospitality and kinship obligations in such circumstances, but refusal to assist hungry kinsmen will lead to fission and the conscious breaking of relationship (*dak mara*). There are other sanctions for maintaining such relationships, not the least of which is the probable need at some future date to demand assistance in return. A man who acquires a reputation for meanness quickly loses the privileges which membership of a community provides, and also the privileges of kinship with Nuer living in other parts of the country.

Claims on the hospitality of kinsmen are often carried to extremes

¹ During the period of invasion and occupation of Dinka country there were periods when the Nuer lived in cattle-camps of concentrated form, a circle of huts or shelters, and did so for several years at a time. The camps were built on the same pattern as those used in the dry season today, but it is clear that agricultural activity was extremely limited and there was certainly no need for a complex system of rights governing the distribution of arable land.

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476 and well beyond the limits of the reciprocal distribution of bridewealth
602 cattle, but I do not wish to exaggerate the extent or effectiveness of
438 economic reciprocity in the kinship system. In the past as well as
the present, grain and other food were bartered for cattle, other animal
stock, and other commodities, and there was considerable trade, which
increased in volume in years of famine. Nowadays, with the introduction
of a money economy, grain is bought with cash either from other
Nuer or from Arab merchants, who, sponsored by the Government,
often import large quantities to meet local shortages.

621 A stranger cannot intrude himself into a community or build his
609 house and clear his fields without its acceptance. Not only will
objections be raised which might lead to his ejection, but he could
not hope to gain full membership of the community and the advantages
which follow. This does not, however, usually arise because strangers
are nearly always a welcome addition to the community, which thereby
gains in strength, and because the newcomer can nearly always claim
some previous link arising from kinship, marital ties, or at any rate
close friendship (*math*), with one or more members of that com-
munity. In any case a form of social relationship will be forged in
the passage of time by intermarriage and adoption into the lineage
structure of the community. A change of residence, if it is permanent,
means also a change of social and political affiliation.

423 For these reasons, because crop production is not an important feature
of their economy, at any rate in many parts of Nuerland, and because,
despite the obvious limitations of flood-free land, there is no great
shortage, there are no complex laws of land tenure. Disputes are
rare, and still more rarely taken before the courts.¹ Thus, though
circumstances may change with the development of agricultural enter-
prise, land tenure is not at present an important or well-defined feature
of Nuer customary law.

Grazing Rights

423 During the rains the cattle are kept in the permanent settlements
233 and quartered in cattle-byres (*luak*), each family unit having its own.
361 The *luak* is the centre of the family group consisting of the head of
the family and his wives, who, each with her children, occupy separate
huts which are clustered around it. Grazing is used communally by
all members of the settlement, and although pastures are limited,
especially at the height of the rains, and although there may be periodic
shortages when the cattle lose condition, no more precise division of
the territory is necessary. Disputes rarely, if ever, arise, and in the
herding of cattle the members of one settlement are united by common

¹ The only form of dispute commonly brought before the courts concerns 'animal trespass', where straying cattle, sheep, or goats damage the crops of neighbours. Compensation is often awarded in such cases.

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interests. In most parts of Nuerland too the nature of the terrain— isolated outcrops of flood-free ground often widely separated—usually precludes the possibility of clashes between different settlements. Likewise when the rains cease the cattle are widely dispersed in small camps over the 'intermediate' plains. There is no shortage and no need for a clear demarcation of boundaries between the units of one community, or between different communities coming from different settlements.

As the dry season advances, when the 'intermediate' grasses become unpalatable and water supplies run short, concentration increases, and the small camps join together in larger ones in the *toic*. Cattle-camps with five or six thousand animals are not uncommon, and often there are many of such camps clustered along the banks of a river or water-course in one region. More careful regard for rights in these pastures and in the fisheries which go with them may be necessary if disputes are to be avoided. Yet there is usually plenty of grazing, though this varies according to prevailing climatic conditions. In one year the river may be low and the rains light, with the result that the Nuer must penetrate farther into the riverain marshes; in another, a high river level may limit their movements to the fringes. Both circumstances may result in shortages, and something between the two extremes is probably the ideal; but many Nuer tribes have alternative grazing grounds which are utilized in varying proportions according to the year. For example, the Dok and Jagei Nuer can use the marshes of the Bahr el Jebel in a year when that river is low and much of the flood-plain uncovered, or they can move to the pastures of the Bilnyang system, which are produced partly by water spilling from the main river, and partly by water draining from a different catchment area. Some Nuer tribes do not have these advantages; in some areas periodic plagues of biting flies or mosquitoes, whose incidence also obviously varies with different climatic conditions, prevent the full utilization of their summer grazing grounds. Generally speaking, there are rarely acute shortages, and even in the *toic* the boundaries between tribes or tribal segments need not be closely guarded.

In certain circumstances, however, such boundaries become essential, and their infringement may then cause disputes, which often result in violence and bloodshed. Sometimes there is an unusual shortage both of grazing grasses and water-points, and people who have normally tolerated the intrusion of outsiders less favourably provided than themselves, turn upon them and demand their withdrawal. Again, an epidemic of some contagious disease such as rinderpest or contagious bovine pleuro-pneumonia makes quarantine and segregation of the herds essential. Fear of the spread of disease compels the owners to guard their boundaries more closely. To bring contaminated cattle into an area recognized as the exclusive right of other segments, and

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where strangers are only allowed on sufferance, is a particularly serious infringement of grazing rights, and one which raises a storm of protest quickly followed by blows. Disputes of this nature do not usually start on a tribal scale; the initial quarrel arises between two adjacent cattle-camps near the boundaries, but feelings of indignation may extend along the lines of segmentation until two large segments or even two tribes are ranged against each other. Rights in grazing are recognized and follow the lines of the segmentary system, but are not a constant source of friction. Violation of these rights in years when it was necessary to guard them almost invariably led to hostilities in the past. Nowadays, though fights are not infrequent and boundary disputes are a common cause of blood-feuds, disputes of this nature are often settled peacefully in the courts.

Water Rights

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Rights in watering places cannot be treated except in relation to grazing. In the dry season it is the availability of water which largely determines the extent to which certain pastures within the territory of the tribe or the tribal segment are used. This applies particularly to those Nuer tribes who are unable to reach perennial rivers like the Zeraf, Bahr el Jebel, or Sobat. Disputes over pools, especially in dry years when they dry out early in the year, often arise and may lead to bloodshed. Water rights, however, follow the same principles which govern the division of territory according to the segmentation of tribal structure. Shallow wells are sometimes sunk, and are the property of the individual who digs them, but subject always to his obligation to share with his kinsmen and neighbours.

Fishing Rights and Hunting Rights

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Fishing rights go with the divisions of territory in which the fish pools are situated and are guarded with perhaps a greater intensity of feeling than are rights in land. Fishing in the riverain area is essentially a dry season occupation, and there are fishing pools or stretches of shallow rivers and watercourses attached to and situated within grazing areas. Fishing is also a collective activity, and the right of the individual is limited by his membership of the tribal segment to which the pool belongs. Fishing again depends largely on the climatic conditions prevailing. A season of heavy rainfall followed by an abrupt drop in levels in the rivers and their tributaries is usually the ideal. Fish have been able to move far upstream during the rains, but are prevented from returning to the deeper waters of the main channels and are concentrated in depressions and pools shallow enough for the people to spear them. In such circumstances fish are not scarce, and pools

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farther afield may be abandoned for the time being. Other people whose opportunities for fishing may not be so great as their neighbours' may utilize the less accessible pools unmolested, but should climatic conditions cause scarcity elsewhere their owners will demand the right to use them to the exclusion of other people.

Hunting rights are also defined by the limits of recognized tribal or segment territory, but since the Nuer are not very active hunters there is no clear definition, and quarrels rarely arise. There are rules governing the division of the flesh of wild animals killed in collective hunting, though they are rarely followed without argument. The division of meat in these circumstances often leads to violent quarrels but is not a subject which reaches the stage of litigation in the courts. Ivory, a very valuable commodity in Nuer eyes, not because of its market value but because it is the ambition of most Nuer to own an ivory bracelet, is subject to more definite rules. The right tusk must always go to the first spearer, the *ran me koic e-je*, the left tusk to the second spearer, the *ran me gam e-je*. Others who take part in the hunt, even if the wounds they have inflicted have been much more deadly than those of the first two spearers, get no more than their share of the meat. Those who get the tusks must divide them among their kinsmen according to principles similar to those which govern the distribution of bridewealth cattle. The central portion must be given to the *gwan buthni* of the lineage, this portion being sufficient to make one large bangle; of the remainder a portion must go *kwi gwan*, to the father's side, and a portion *kwi man* (or *nar*), to the mother's or maternal uncle's side. Dead elephants are sometimes found, the ivory going to the first and second finder in the same manner. The right to tusks and the way in which they are distributed are not matters which come before the courts, and there are strong ritual sanctions for observing the correct rules. There is a mystical link between man—that is, Nuer—and elephants, which means that killing them is not only a hazardous physical undertaking, but is also spiritually dangerous. It is something akin to homicide, and special ritual must be performed, including the letting of blood (*birr*) from the first spearer.¹ Nuer also believe that if they ignored the rules of distribution, the spirit (*cien*) of the dead elephant would haunt them and would bring them misfortunes.

Conclusion

Rights in land are therefore collective and follow the segmentary structure of Nuer society. They are recognized and nowadays will be enforced in the courts, and they embrace all types of land necessary to the subsistence economy of the Nuer, but they are not in constant

¹ As in homicide it is the first spearer who is held responsible for the animal's death.

423 emphasis nor is there any demarcation of boundaries. Within each tribe which owns a territory in opposition to other tribes there is a further division according to primary segments and smaller communities. The lower down the scale of segmentation the less clearly defined are these boundaries, because ultimately they correspond to regions occupied by people closely bound by ties of kinship and by the need for close co-operation in the economic sphere. Individuals and small groups of people cross these boundaries, but must do so with the consent, tacit or consciously given, of those with whom the territory is associated, the *diel*, and those who link themselves to them. Thus with the exception of occasional quarrels over the riverain grazing grounds, land is not often in dispute. In the past rival claims to territory were settled with the spear, and there existed no complex laws of land tenure governing human relationships where land was concerned. Land tenure is not a serious problem in Nuerland nor the subject of much litigation in the courts, and is unlikely to become so while there is no shortage.¹

3. INHERITANCE

428 Laws of inheritance might more properly be discussed under the heading of marriage, for they are inseparable from the general kinship system and the rules of bridewealth distribution. Matters of inheritance are not a common cause of litigation; they are essentially *ruac cieng*, private affairs which should be settled in the home. Nevertheless, disputes of this kind are sometimes brought before the courts, even by persons as closely related as brothers or half-brothers.

Inheritance of Cattle

Nuer society is essentially patrilineal where the inheritance of property is concerned, and a man's belongings should go to his sons, or failing that to his brothers or brothers' sons. Property or titles to cattle accorded in the name of a woman (for example, the mother's, maternal aunt's, and paternal aunt's portions in bridewealth) should go to her own sons and hence to the lineage of her husband, not that of her father. This rule is normally applied though it may be ignored in certain circumstances upon which no generalization can be made.²

428 582 The laws concerning inheritance are not distinct, for the owner is normally expected to divide the cattle actually in his possession among his sons or relatives before he dies. The underlying principle, however, for the distribution of cattle among a man's sons is that brothers

¹ As there may be when the Equatorial Nile Project is in full operation.

² See for example the marriages described on pp. 115-117. In these, since there were no uterine brothers of the bride's mother, their portions went to their maternal nephews, though one might expect them to go to their paternal kinsmen.